

LVFC CHECKSHEET FOR CLOSING ASSISTANCE AGREEMENTS

Processed for: _____ (if other than self)

ACH (ASAP) 20040

#	YES	N/A	DATE	
1	✓		11/13/15	FFR/Termination notice received at LVFC
2	✓		11/13/15	FFR Balances verified with CDW and Screen Printed
3		✓		AAN Generated (Add GPAS Note _____ Update AIMS _____)
a		✓		Logged into White Book
b		✓		Copy of AAN filed in Master Folder
c		✓		Open in ASAP (If Applicable)
4		✓		Final payment certified or drawn from ASAP
5		✓		Accounts receivable established, A/R# _____ Vendor Code _____ GPAS screen print attached
a		✓		Reference added to GPAS stating A/R established
6		✓		Refund received \$ _____ (To be completed by Collections)
7		✓		Amendment for carry-over/transfer received (Novation)
a		✓		COMPASS transactions processed
b		✓		ASAP transactions processed
c		✓		Amendment Accepted? If so, mark GPAS as accepted _____ / Increase ASAP _____. If not, place in acceptance suspense _____.
8		✓		Unliquidated balance deobligated from COMPASS
9		✓		Reconciled CDW screen printed
10		✓		ASAP decrease processed
11	✓		11/13/15	Grant marked closed and reconciled in ASAP
12	✓		11/13/15	Ready for scanning (all staples removed, no bent corners, long sheets of paper straightened, post its taped to full sheet of paper, etc)
13	✓		11/13/15	Copy of closeout documentation to PO, Region Grant Specialist and/or recipient
14	✓		11/13/15	Entered into <u>IGMS</u> / <u>AIMS</u>
\$	0.00			Total funds deobligated from agreement Allowance Holder _____
\$	0.00			Total funds carried over/ transferred

Write-off for Accounts Receivables (\$25 maximum) \$ 0.00 is approved by _____
Director, Las Vegas Finance Center

Agreement closed by: Sharon Rhel
Name

11/13/15
Date

FEDERAL FINANCIAL REPORT

(Follow form instructions)

1. Federal Agency and Organizational Element to Which Report is Submitted U.S. Environmental Protection Agency Region II	2. Federal Grant or Other Identifying Number Assigned by Federal Agency (To report multiple grants, use FFR Attachment) CS-36000114	Page 1 of 1 pages
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3. Recipient Organization (Name and complete address including Zip code) New York State Department Of Environmental Conservation 10th Floor, 625 Broadway, Albany, NY 12233-5022
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4a. DUNS Number 806780912	4b. EIN 14-6013200	5. Recipient Account Number or Identifying Number (To report multiple grants, use FFR Attachment) GMS INUM 1784	6. Report Type <input type="checkbox"/> Quarterly <input type="checkbox"/> Semi-Annual <input type="checkbox"/> Annual <input checked="" type="checkbox"/> Final	7. Basis of Accounting X Cash <input type="checkbox"/> Accrual
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8. Project/Grant Period From: (Month, Day, Year) 10/01/2013	To: (Month, Day, Year) 09/30/2020	9. Reporting Period End Date (Month, Day, Year) 09/30/2015
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10. Transactions	Cumulative
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(Use lines a-c for single or multiple grant reporting)

Federal Cash (To report multiple grants, also use FFR Attachment):	
a. Cash Receipts	
b. Cash Disbursements	
c. Cash on Hand (line a minus b)	

(Use lines d-o for single grant reporting)

Federal Expenditures and Unobligated Balance:	
d. Total Federal funds authorized	83%
e. Federal share of expenditures	\$154,748,000.00
f. Federal share of unliquidated obligations	\$154,748,000.00
g. Total Federal share (sum of lines e and f)	\$0.00
h. Unobligated balance of Federal funds (line d minus g)	\$154,748,000.00
Recipient Share:	17%
i. Total recipient share required	\$30,949,600.00
j. Recipient share of expenditures	\$30,949,600.00
k. Remaining recipient share to be provided (line i minus j)	\$0.00

Program Income:	
l. Total Federal program income earned	
m. Program income expended in accordance with the deduction alternative	
n. Program income expended in accordance with the addition alternative	
o. Unexpended program income (line l minus line m or line n)	

11. Indirect Expense	a. Type	b. Rate	c. Period From	Period To	d. Base	e. Amount Charged	f. Federal Share
	EPA Approved Fixed						
g. Totals:							

12. Remarks:

13. Certification: By signing this report, I certify that it is true, complete, and accurate to the best of my knowledge. I am aware that any false, fictitious, or fraudulent information may subject me to criminal, civil, or administrative penalties. (U.S. Code, Title 218, Section 1001)

a. Typed or Printed Name and Title of Authorized Certifying Official Nancy W. Lussier, Director of Management and Budget Services	c. Telephone (Area code, number and extension) (518) 402-9376
b. Signature of Authorized Certifying Official 	d. Email address
	e. Date Report Submitted (Month, Day, Year) NOV 13 2015

14. Agency use only:

Standard Form 425 - Revised 10/11/2011
OMB Approval Number: 0348-0061
Expiration Date: 2/28/2015

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is 0348-0061. Public reporting burden for this collection of information is estimated to average 1.5 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0061), Washington, DC 20503.

Financially Closed - Processed at LVFC
Deobligated \$ 0.00
By SKH/INH/ST On 11/13/15
PO Copy Jane Lee

1



Document Review

Compass Document: GO EM83406801

11/13/15

Document Summary: [General Ledger Entries](#)

Doc Type: GO

Doc No: EM83406801

Vendor Code: 136211384A V

IGMS Grant No: 83406801-1

IGMS Budget Start Date: 10/01/2008

IGMS Budget End Date: 09/30/2015

IGMS Project Start Date: 10/01/2008

IGMS Project End Date: 09/30/2015

Order Date: 03/20/09

Closed Date: 11/13/15

Servicing Finance Office: LVFC

Order Amount: \$3,268,808.52

Net Paid Amount: \$3,268,808.52

Closed Amount: \$3,268,808.52

Available Amount: \$0.00

Vendor: WATER RESEARCH FOUNDATION

Vendor Legal Name: WATER RESEARCH FOUNDATION

Alternate Vendor:

Description: CONVERSION

Extended Description:

AIMS FFR Status: 11/06/2015-FFR received but Void, requesting new FFR from recipient

Document Details: [Expand](#)

Line#	Line Amt	Expended Amt	Closed Amt	Refunded Amt	Available Amt	BFY	Fund	Org	Program	Project	FOC	CostOrg	Comments	E
1	\$1,656,000.00	\$1,656,000.00	\$1,656,000.00	\$0.00	\$0.00	20082009	C	26CWADF	203F51D	n/a	4142		RQ 0826CW863	
2	\$1,612,808.52	\$1,612,808.52	\$1,612,808.52	\$0.00	\$0.00	20092010	C	26CWADF	203F51D	n/a	4142		RQ 0926CW946	

Document Activity:

Date	Ref Amount	Related Document	Direction	Date	Ref Amount	Related Document	Date	Ref Amount	Related Document
10/22/2015	\$71,440.52	DT 16AS944071	Forward						
04/30/2015	\$11,386.00	DT 15AS912540	Forward						
01/28/2015	\$58,615.00	DT 15AS894891	Forward						
10/24/2014	\$59,999.00	DT 15AS876607	Forward						
07/25/2014	\$40,000.00	DT 14AS859375	Forward						
04/21/2014	\$25,000.00	DT 14AS840498	Forward						
01/30/2014	\$33,065.00	DT 14AS823703	Forward						
11/08/2013	\$25,908.00	DT 14AS808181	Forward						
07/24/2013	\$217,075.00	DT 13AS785735	Forward						
05/07/2013	\$212,504.00	DT 13AS769711	Forward						
02/08/2013	\$100,222.00	DT 13AS750124	Forward						
10/30/2012	\$147,893.00	DT 13AS728174	Forward						
07/24/2012	\$113,148.00	DT 12AS703633	Forward						
04/20/2012	\$184,440.00	DT 12AS673237	Forward						
02/16/2012	\$474,395.00	DT 12AS0651405	Forward						
12/22/2011	\$363,785.00	DT 12AS0633162	Forward						
10/09/2011	\$1,129,933.00	PVC GOEM83406801	Forward						
10/08/2011	\$3,313,000.00	Increase							

Warehouse Homepage

EPA@Work Home | EPA Internet

https://V1742TRTAY006.RTP.EPA.GOV/neis/grant_web.grant_result

This web page was last updated on 08/11/2012.

For issues, please contact: The OCFO Sytem Help Desk - OCFO-System-Help@epa.gov or (202) 564-OCFO (6236)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

January 14, 2015

VIA E-MAIL

Agreement No. CS34000114
Amendment No. 2

Joseph Martens, Commissioner
New York State Department of Environmental Conservation
625 Broadway
Albany, New York 12233-1011

Attention: Federal Grants

Subject: Amendment to New York's FFY 2014 Clean Water State Revolving Fund (CWSRF)
Capitalization Grant

Dear Commissioner Martens:

Attached is Amendment No. 2 to the above-referenced agreement. This amendment reflects the recent agreements between EPA and NYSDEC that are cited in your January 6, 2015 letter to me. As requested, the amendment deletes Programmatic Condition A and modifies Programmatic Conditions D and F to remove references therein to Programmatic Condition A. ✓

These revisions are made given the following assurances in your January 6th letter:

- "... [P]ending final, non-appealable resolution of DEC and EFC's challenge to the September 16, 2014 EPA determination, DEC hereby assures EPA that they will not use any CWSRF funds on the seven disputed New New York Bridge estuary improvement projects."
- NYSDEC will withdraw the two outstanding Notices of Disagreement upon receipt of this amendment, which serves as written confirmation that EPA has removed Programmatic Condition A, as well as references thereto in Programmatic Conditions D and F, from the FFY 2015 CWSRF Capitalization Grant.
- The CWSRF FFY 2015 Intended Use Plan (IUP) will be amended as follows:
 1. "The NYSTA project listing will be amended to read as follows: 'This project will cover components of the New New York Bridge which implement the federally approved New York-New Jersey Harbor Estuary Management Plan.'
 2. The footnote to the NYSTA listing will be amended to read as follows: 'This is a contingent commitment, pending the outcome of a dispute with the U.S. Environmental Protection Agency.'
 3. The total dollar amount in the NYSTA project listing will be reduced by \$29.1 million, the estimated amount of the five projects determined by EPA to be eligible for SRF funding in the September 16, 2014 letter. The projects determined by EPA to be eligible will be made a separate listing."

I note that we have seen the draft of the changes to the FFY 2015 IUP and support them. Further, EPA hereby confirms that NYSDEC's withdrawal of the Notices of Disagreement will not in any way affect

the continuation of NYSDEC's appeal of the project eligibility determinations in the September 16, 2014 Agency Decision letter.

There is no change to the amount of funds awarded or the scope of work under this agreement.

As you are aware, EPA has eliminated the requirement for recipients to submit a signed Affirmation of Award for assistance agreements. An assistance agreement recipient demonstrates its commitment to carry out the award by either: 1) drawing down funds within 21 days after the EPA award or amendment mailing date; or, 2) not filing a notice of disagreement with the award terms and conditions within 21 days after the EPA award or amendment mailing date. [Emphasis added.] Please see the "Notice of Award" section of the agreement for more information.

You are not required to sign and return a copy of the attached agreement. Should you wish to file another notice of disagreement with the award terms and conditions, you have the option of either emailing your notice to Region2_GrantApplicationBox@epa.gov or mailing it to:

Roch Baamonde, Chief
Grants and Audit Management Branch
U.S. EPA Region 2
290 Broadway, 27th Floor
New York, NY 10007

All email attachments must be sent in pdf format. Documents emailed to us in any other format cannot be accepted. Also, be advised that any electronic submissions exceeding 15 Megabytes must be mailed.

Sincerely,

A handwritten signature in dark ink, appearing to read "Roch Baamonde". The signature is fluid and cursive, with the first name "Roch" and last name "Baamonde" clearly distinguishable.

Roch C. Baamonde, Chief
Grants and Audit Management Branch

Attachments

cc: Nancy Lussier, NYSDEC
Timothy Burns, NYSEFC
Jane Leu, USEPA/CWD
Steve Vida, USEPA/CW

Rivera, Luis

From: Trala, Jenny L (DEC) [jenny.trala@dec.ny.gov]
Sent: Tuesday, March 10, 2015 7:29 AM
To: Rivera, Luis
Subject: RE: US EPA Grant CS36000114 for NY STATE DEPT. OF ENVIRONMENTAL CONSERVATION

Hi Luis,

Yes we have all the supporting documentation that covers that draw.

Thanks

Jenny Trala, Federal Grants Unit
Department of Environmental Conservation, 10th Floor
Albany, NY 12233-5022
(518) 402-9371

From: Rivera, Luis [mailto:rivera.luise@epa.gov]
Sent: Tuesday, March 10, 2015 10:19 AM
To: Trala, Jenny L (DEC)
Subject: US EPA Grant CS36000114 for NY STATE DEPT. OF ENVIRONMENTAL CONSERVATION

Hello Jenny,

Most recently the NY State Dept. of Environmental Conservation drew \$5,158,267.00 within the ASAP system against CS36000114. On such large draws we need to inquire if you have the invoices or supporting documentation to cover this draw. A simple reply will be sufficient. This is a routine procedure for our office to inquire on large draw-downs. Please reply, thank you.

Luis E. Rivera
U.S. EPA Financial Specialist
Las Vegas Finance Center
Phone (702) 798-2495
Fax: (702) 798-2423

EPA Finance Home Page: <http://www2.epa.gov/financial>

Forward payments and SF 425 to the following email address: lvfc-grants@epa.gov

Grant Payment Allocation System (GPAS)[Payment
Workload](#)[Manual
Payments](#)[Fellowship
Payments](#)[Utilities](#)[Reports](#)[Change
Password](#)[Logout](#)**Payment Allocation**

Barcode:	15AS902284	Recipient ID:	3688861
Account ID:	CS36000114	Obligation No:	GO CS36000114
Group ID:	20040	Payment Type:	ASAP
ACH/Fedwire:	ACH	Debit/Credit:	Debit
Date Paid:	03/09/2015	Amount:	\$5,158,267.00

Compass Vendor: ENVIRONMENTAL CONSERVATION, NEW YORK DEPARTMENT OF (146013200A V)
IGMS Grantee: NYS DEPT OF ENVIRONMENTAL CONSERVATION
IGMS Grant Number: 36000114-2

Grant Obligation Amt: \$154,748,000.00
Budget Start Date: 10/01/2013

Obl Available Amt: \$5,158,267.00 (3.3%)
Budget End Date: 09/30/2020

This Document has already been processed.

[Return to payment workload](#)

Grant Payment Allocation System (GPAS)

[Payment
Workload](#)
[Manual
Payments](#)
[Utilities](#)
[Reports](#)
[Change
Password](#)
[Logout](#)

Payment Allocation

Barcode:	15AS896658	Recipient ID:	3688861
Account ID:	CS36000114	Obligation No:	GO CS36000114
Group ID:	20040	Payment Type:	ASAP
ACH/Fedwire:	ACH	Debit/Credit:	Debit
Date Paid:	02/05/2015	Amount:	\$74,794,867.00

Compass Vendor: ENVIRONMENTAL CONSERVATION, NEW YORK DEPARTMENT OF (146013200A V)
IGMS Grantee: NYS DEPT OF ENVIRONMENTAL CONSERVATION
IGMS Grant Number: 36000114-2

Grant Obligation Amt: \$154,748,000.00

Obl Available Amt: \$154,748,000.00 (100.0%)

Budget Start Date: 10/01/2013

Budget End Date: 09/30/2020

No Payment History Available

Control Accounts:

14CA	\$74,794,867.00
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Allocation Method:

Line ▼	RQ Number	Amend	BFY	Fund	Org	Prog	Site	Cost Org	BOC	Available	<input checked="" type="checkbox"/>	Distribute	P/F
1	1402HE0187	AMEND0	2014	E2	022	202B80	14CA		4111	\$154,748,000.00		74794867.00	P
Total												74794867.00	

[Change Obligation](#)
[Reset](#)
[Save](#)

Rheinhardt, Sharen

From: Trala, Jenny L (DEC) [jenny.trala@dec.ny.gov]
Sent: Friday, February 06, 2015 8:41 AM
To: Rheinhardt, Sharen
Subject: RE: US EPA Grant CS36000114

Hi Sharen,

Yes we have all the supporting documentation that covers the entire draw of \$149,589,733.

Thank you

Jenny Trala, Federal Grants Unit
Department of Environmental Conservation, 10th Floor
Albany, NY 12233-5022
(518) 402-9371

From: Rheinhardt, Sharen [mailto:rheinhardt.sharen@epa.gov]
Sent: Friday, February 06, 2015 10:32 AM
To: Trala, Jenny L (DEC)
Cc: Rivera, Luis
Subject: US EPA Grant CS36000114

I am filling in for Louis Rivera today and most recently the NYS DEPT OF ENVIRONMENTAL CONSERVATIONINAN drew \$74,794,867.00 and \$74,794,866.00 within the ASAP system against CS36000114. On such large draws we need to inquire if you have the invoices or supporting documentation to cover this draw. A simple reply will be sufficient. This is a routine procedure for our office to inquire on large draw-downs.

Please reply back, thank you.

Sharen Rheinhardt
U.S. EPA,
Las Vegas Finance Center
Financial Specialist
Phone: (702) 798-2471
FAX: (702) 798-2423
Email: Rheinhardt.sharen@epa.gov
WEBSITE: : www.epa.gov/financial/
You can now email any documents to LVFC-grants@epa.gov in lieu of fax or mail.

Grant Payment Allocation System (GPAS)

[Payment
Workload](#)
[Manual
Payments](#)
[Utilities](#)
[Reports](#)
[Change
Password](#)
[Logout](#)

Payment Allocation

Barcode:	15AS896659	Recipient ID:	3688861
Account ID:	CS36000114	Obligation No:	GO CS36000114
Group ID:	20040	Payment Type:	ASAP
ACH/Fedwire:	ACH	Debit/Credit:	Debit
Date Paid:	02/05/2015	Amount:	\$74,794,866.00

Compass Vendor: ENVIRONMENTAL CONSERVATION, NEW YORK DEPARTMENT OF (146013200A V)
IGMS Grantee: NYS DEPT OF ENVIRONMENTAL CONSERVATION
IGMS Grant Number: 36000114-2

Grant Obligation Amt: \$154,748,000.00

Obl Available Amt: \$154,748,000.00 (100.0%)

Budget Start Date: 10/01/2013

Budget End Date: 09/30/2020

Payment History: [Hide](#)

Barcode	Date	Amount
15AS896658	02/06/2015	\$74,794,867.00

Control Accounts:

14CA	\$74,794,866.00
------	-----------------

Allocation Method:

Line ▼	RQ Number	Amend	BFY	Fund	Org	Prog	Site	Cost Org	BOC	Available	<input checked="" type="checkbox"/>	Distribute	P/F
1	1402HE0187	AMEND0	2014	E2	022	202B80	14CA		4111	\$154,748,000.00		74794866.00	P
Total												74794866.00	

[Change Obligation](#)
[Reset](#)
[Save](#)

Rheinhardt, Sharen

From: Trala, Jenny L (DEC) [jenny.trala@dec.ny.gov]
Sent: Friday, February 06, 2015 8:41 AM
To: Rheinhardt, Sharen
Subject: RE: US EPA Grant CS36000114

Hi Sharen,

Yes we have all the supporting documentation that covers the entire draw of \$149,589,733.

Thank you


Jenny Trala, Federal Grants Unit
Department of Environmental Conservation, 10th Floor
Albany, NY 12233-5022
(518) 402-9371

From: Rheinhardt, Sharen [mailto:rheinhardt.sharen@epa.gov]
Sent: Friday, February 06, 2015 10:32 AM
To: Trala, Jenny L (DEC)
Cc: Rivera, Luis
Subject: US EPA Grant CS36000114

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Please reply back, thank you.

Sharen Rheinhardt
U.S. EPA,
Las Vegas Finance Center
Financial Specialist
Phone: (702) 798-2471
FAX: (702) 798-2423
Email: Rheinhardt.sharen@epa.gov
WEBSITE: : www.epa.gov/financial/
You can now email any documents to LVFC-grants@epa.gov in lieu of fax or mail.

	U.S. ENVIRONMENTAL PROTECTION AGENCY Assistance Amendment		GRANT NUMBER (FAIN): 36000114		DATE OF AWARD
			MODIFICATION NUMBER: 2		01/14/2015
			PROGRAM CODE: CS		
			TYPE OF ACTION		MAILING DATE
		No Cost Amendment		01/14/2015	
		PAYMENT METHOD: Advance		ACH# 20040	
RECIPIENT TYPE: State			Send Payment Request to: EPA Las Vegas Finance Center		
RECIPIENT:			PAYEE:		
NYS Dept of Environmental Conservation 625 Broadway AlbanyNY 12233-5010 EIN: 14-6013200			NYS Dept of Environmental Conservation 625 Broadway AlbanyNY 12233-5010		
PROJECT MANAGER		EPA PROJECT OFFICER		EPA GRANT SPECIALIST	
Nancy Lussier 625 Broadway AlbanyNY 12233-5010 E-Mail: nwlussie@gw.dec.state.ny.us Phone: 518-402-9237		Jane Leu 290 BroadwayCWD/DWMIB New YorkNY 10007-1866 E-Mail: Leu.Jane@epamail.epa.gov Phone: 212-637-3815		Yvette MarCardona Grants and Audit Mgt BranchOPM/GAMB E-Mail: MarCardona.Yvette@epa.gov Phone: 212-637-3409	
PROJECT TITLE AND EXPLANATION OF CHANGES NYSDEC-FFY 2014 CWSRF General Amendment Requiring Signature; Terms & Conditions (Major) In accordance with NYSDEC's letter dated January 6, 2015, this amendment modifies Programmatic Conditions D and F and removes Programmatic Condition A. There is no change to the amount of funds awarded or the scope of work under this agreement. General Amendment Requiring Signature Terms & Conditions (Major)					
BUDGET PERIOD 10/01/2013 - 09/30/2020		PROJECT PERIOD 10/01/2013 - 09/30/2020		TOTAL BUDGET PERIOD COST \$185,697,600.00	
				TOTAL PROJECT PERIOD COST \$185,697,600.00	
NOTICE OF AWARD					
Based on your Application dated 01/06/2015 including all modifications and amendments, the United States acting by and through the US Environmental Protection Agency (EPA) hereby awards \$0. EPA agrees to cost-share 83.33% of all approved budget period costs incurred, up to and not exceeding total federal funding of \$154,748,000. Recipient's signature is not required on this agreement. The recipient demonstrates its commitment to carry out this award by either: 1) drawing down funds within 21 days after the EPA award or amendment mailing date; or 2) not filing a notice of disagreement with the award terms and conditions within 21 days after the EPA award or amendment mailing date. If the recipient disagrees with the terms and conditions specified in this award, the authorized representative of the recipient must furnish a notice of disagreement to the EPA Award Official within 21 days after the EPA award or amendment mailing date. In case of disagreement, and until the disagreement is resolved, the recipient should not draw down on the funds provided by this award/amendment, and any costs incurred by the recipient are at its own risk. This agreement is subject to applicable EPA regulatory and statutory provisions, all terms and conditions of this agreement and any attachments.					
ISSUING OFFICE (GRANTS MANAGEMENT OFFICE)			AWARD APPROVAL OFFICE		
ORGANIZATION / ADDRESS			ORGANIZATION / ADDRESS		
Grants and Audit Management Branch 290 Broadway, 27th Floor New York, NY 10007-1866			EPA R2 Clean Water Division 290 Broadway New YorkNY 10007-1866		
THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY					
Digital signature applied by EPA Award Official - Grants Management Officer Digital signature applied by EPA Award Official for Roch Baamonde - Grants Management Officer Roch Baamonde - Award Official delegate					DATE 01/14/2015

ST ST T

*Reviewed
Agency Review
Roch
2/2/15*

EPA Funding Information

CS - 36000114 - 2 Page 2

FUNDS	FORMER AWARD	THIS ACTION	AMENDED TOTAL
EPA Amount This Action	\$ 154,748,000	\$ 0	\$ 154,748,000
EPA In-Kind Amount	\$ 0	\$	\$ 0
Unexpended Prior Year Balance	\$ 0	\$	\$ 0
Other Federal Funds	\$ 0	\$	\$ 0
Recipient Contribution	\$ 30,949,600	\$	\$ 30,949,600
State Contribution	\$ 0	\$	\$ 0
Local Contribution	\$ 0	\$	\$ 0
Other Contribution	\$ 0	\$	\$ 0
Allowable Project Cost	\$ 185,697,600	\$ 0	\$ 185,697,600

Assistance Program (CFDA)	Statutory Authority	Regulatory Authority
66.458 - Capitalization Grants for State Revolving Fund	Clean Water Act: Secs. 205(m) 601-607	40 CFR PTS 31 & 35 SUBPRT K

Fiscal									
Site Name	Req No	FY	Approp. Code	Budget Organization	PRC	Object Class	Site/Project	Cost Organization	Obligation / Deobligation

41 12 15

Budget Summary Page

Table A - Object Class Category (Non-construction)	Total Approved Allowable Budget Period Cost
1. Personnel	\$478,213
2. Fringe Benefits	\$280,950
3. Travel	\$0
4. Equipment	\$0
5. Supplies	\$0
6. Contractual	\$0
7. Construction	\$0
8. Other	\$184,806,132
9. Total Direct Charges	\$185,565,295
10. Indirect Costs: % Base	\$132,305
11. Total (Share: Recipient <u>16.67</u> % Federal <u>83.33</u> %.)	\$185,697,600
12. Total Approved Assistance Amount	\$154,748,000
13. Program Income	\$0
14. Total EPA Amount Awarded This Action	\$
15. Total EPA Amount Awarded To Date	\$

97 97 74

Administrative Conditions

All General and Grant-Specific Administrative Conditions remain the same.

Programmatic Conditions

Grant-Specific Programmatic Conditions

All Terms and Conditions included or referenced in Amendment No. CS36000114-0 remain in effect and are incorporated by reference herein, with the following exception(s): **Programmatic Condition A is hereby deleted, and the conditions below have been modified as shown.**

D. GENERAL ADMINISTRATIVE REQUIREMENTS

NYSDEC agrees pursuant to 40 CFR Part 35, Subpart K, to administer the State Revolving Fund program in accordance with the terms, agreements, assurances and representations made within the Operation Agreement, the Intended Use Plan and the original application for Federal assistance dated September 30, 2013, revised April 1, 2014. The scope of work for this Grant shall be the eligible projects listed in the revised FFY 2014 Intended Use Plan (IUP), dated August, 2014.

F. PRE-AWARD COSTS

In accordance with 40 C.F.R. §31.23, NYSDEC may charge pre-award costs (both Federal and non-Federal matching shares) incurred from October 1, 2013 to the actual award date provided that such costs were contained in the approved application and the approved IUP, dated August, 2014, and all costs are incurred within the approved budget period.

NOTE: Programmatic Condition A, "RESTRICTION ON THE USE OF CWSRF FUNDING" is no longer applicable and has been deleted from this agreement.



	U.S. ENVIRONMENTAL PROTECTION AGENCY Assistance Amendment		GRANT NUMBER (FAIN): 36000114	DATE OF AWARD
			MODIFICATION NUMBER: 1	11/05/2014
			PROGRAM CODE: CS	MAILING DATE
			TYPE OF ACTION No Cost Amendment	11/05/2014
		PAYMENT METHOD: Advance	ACH# 20040	
RECIPIENT TYPE: State		Send Payment Request to: EPA Las Vegas Finance Center		
RECIPIENT:		PAYEE:		
NYS Dept of Environmental Conservation 625 Broadway Albany NY 12233-5010 EIN: 14-6013200		NYS Dept of Environmental Conservation 625 Broadway Albany NY 12233-5010		
PROJECT MANAGER	EPA PROJECT OFFICER	EPA GRANT SPECIALIST		
Nancy Lussier 625 Broadway Albany NY 12233-5010 E-Mail: nwlussie@gw.dec.state.ny.us Phone: 518-402-9237	Jane Leu 290 Broadway CWD/DWMIB New York NY 10007-1866 E-Mail: Leu.Jane@epamail.epa.gov Phone: 212-637-3815	Yvette MarCardona Grants and Audit Mgt Branch OPM/GAMB E-Mail: MarCardona.Yvette@epa.gov Phone: 212-637-3409		
PROJECT TITLE AND EXPLANATION OF CHANGES NYSDC-FFY 2014 CWSRF As an acknowledgement of NYSDC's pending appeal of the project eligibility determinations in the September 16, 2014 letter from Joan Leary Matthews, EPA Region 2 Clean Water Division Director, and as an attempt to resolve the October 6, 2014 Notice of Disagreement letter from Deputy Commissioner McTiernan, this amendment modifies Programmatic Condition A. This modification incorporates by reference the outcome of the appeal as well as any consequential judicial action. There is no change to the amount of funds awarded or the scope of work under this agreement. General Amendment Requiring Signature Terms & Conditions (Major)				
BUDGET PERIOD 10/01/2013 - 09/30/2020	PROJECT PERIOD 10/01/2013 - 09/30/2020	TOTAL BUDGET PERIOD COST \$185,697,600.00	TOTAL PROJECT PERIOD COST \$185,697,600.00	
NOTICE OF AWARD Based on your Application dated 10/06/2014 including all modifications and amendments, the United States acting by and through the US Environmental Protection Agency (EPA) hereby awards \$0. EPA agrees to cost-share 83.33% of all approved budget period costs incurred, up to and not exceeding total federal funding of \$154,748,000. Recipient's signature is not required on this agreement. The recipient demonstrates its commitment to carry out this award by either: 1) drawing down funds within 21 days after the EPA award or amendment mailing date; or 2) not filing a notice of disagreement with the award terms and conditions within 21 days after the EPA award or amendment mailing date. If the recipient disagrees with the terms and conditions specified in this award, the authorized representative of the recipient must furnish a notice of disagreement to the EPA Award Official within 21 days after the EPA award or amendment mailing date. In case of disagreement, and until the disagreement is resolved, the recipient should not draw down on the funds provided by this award/amendment, and any costs incurred by the recipient are at its own risk. This agreement is subject to applicable EPA statutory provisions. The applicable regulatory provisions are 40 CFR Chapter 1, Subchapter B, and all terms and conditions of this agreement and any attachments.				
ISSUING OFFICE (GRANTS MANAGEMENT OFFICE)		AWARD APPROVAL OFFICE		
ORGANIZATION / ADDRESS		ORGANIZATION / ADDRESS		
Grants and Audit Management Branch 290 Broadway, 27th Floor New York, NY 10007-1866		EPA R2 Clean Water Division 290 Broadway New York NY 10007-1866		
THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY				
Digital signature applied by EPA Award Official - Grants Management Officer Digital signature applied by EPA Award Official for Roch Baamonde - Grants Management Officer Roch Baamonde - Award Official delegate				DATE 11/05/2014

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EPA Funding Information

CS - 36000114 - 1 Page 2

FUNDS	FORMER AWARD	THIS ACTION	AMENDED TOTAL
EPA Amount This Action	\$ 154,748,000	\$ 0	\$ 154,748,000
EPA In-Kind Amount	\$ 0	\$	\$ 0
Unexpended Prior Year Balance	\$ 0	\$	\$ 0
Other Federal Funds	\$ 0	\$	\$ 0
Recipient Contribution	\$ 30,949,600	\$ 0	\$ 30,949,600
State Contribution	\$ 0	\$	\$ 0
Local Contribution	\$ 0	\$	\$ 0
Other Contribution	\$ 0	\$	\$ 0
Allowable Project Cost	\$ 185,697,600	\$ 0	\$ 185,697,600

Assistance Program (CFDA)	Statutory Authority	Regulatory Authority
66.458 - Capitalization Grants for State Revolving Fund	Clean Water Act: Secs. 205(m) 601-607	40 CFR PTS 31 & 35 SUBPRT K

Fiscal									
Site Name	Req No	FY	Approp. Code	Budget Organization	PRC	Object Class	Site/Project	Cost Organization	Obligation / Deobligation

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Budget Summary Page

Table A - Object Class Category (Non-construction)	Total Approved Allowable Budget Period Cost
1. Personnel	\$478,213
2. Fringe Benefits	\$280,950
3. Travel	\$0
4. Equipment	\$0
5. Supplies	\$0
6. Contractual	\$0
7. Construction	\$0
8. Other	\$184,806,132
9. Total Direct Charges	\$185,565,295
10. Indirect Costs: % Base	\$132,305
11. Total (Share: Recipient 16.67 % Federal 83.33 %.)	\$185,697,600
12. Total Approved Assistance Amount	\$154,748,000
13. Program Income	\$0
14. Total EPA Amount Awarded This Action	\$
15. Total EPA Amount Awarded To Date	\$

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Administrative Conditions

All General and Grant-Specific Administrative Conditions remain the same.

Programmatic Conditions

Grant-Specific Programmatic Condition A is revised as follows

A. RESTRICTION ON THE USE OF CWSRF FUNDING

No CWSRF funds may be expended on ineligible projects, including those detailed in the September 16, 2014 letter from Joan Leary Matthews, EPA Region 2 Clean Water Division Director. Should any subsequent modifications resulting from the appeal process or subsequent judicial action be made to the project eligibility determinations contained in that letter, they are hereby incorporated by reference.

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	U.S. ENVIRONMENTAL PROTECTION AGENCY Grant Agreement		GRANT NUMBER (FAIN): 36000114		DATE OF AWARD 09/16/2014	
			MODIFICATION NUMBER: 0			
			PROGRAM CODE: CS		TYPE OF ACTION New	MAILING DATE 09/16/2014
			PAYMENT METHOD: Advance		ACH# 20040	
RECIPIENT TYPE: State			Send Payment Request to: EPA Las Vegas Finance Center			
RECIPIENT:			PAYEE:			
NYS Dept of Environmental Conservation 625 Broadway Albany NY 12233-5010 EIN: 14-6013209			NYS Dept of Environmental Conservation 625 Broadway Albany NY 12233-5010			
PROJECT MANAGER		EPA PROJECT OFFICER		EPA GRANT SPECIALIST		
Nancy Lussier 625 Broadway Albany NY 12233-5010 E-Mail: nwlussie@gw.dec.state.ny.us Phone: 518-402-9237		Jane Leu 290 Broadway New York NY 10007-1866 E-Mail: Leu.Jane@epamail.epa.gov Phone: 212-637-3815		Yvette MarCardona Grants and Audit Mgt Branch OPM/GAMB E-Mail: MarCardona.Yvette@epa.gov Phone: 212-637-3409		
PROJECT TITLE AND DESCRIPTION NYSDEC-FFY 2014 CWSRF This agreement is for a capitalization grant which provides funds for New York's Clean Water State Revolving Fund program to provide low interest financing to recipients for costs associated with the planning, design, and construction of eligible water quality improvement and protection projects throughout the State of New York. The objectives are to establish and manage an effective comprehensive Water Pollution and Control Revolving Funds program and to maintain a self-sustaining revolving fund so as to improve and protect water quality and public health.						
BUDGET PERIOD 10/01/2013 - 09/30/2020		PROJECT PERIOD 10/01/2013 - 09/30/2020		TOTAL PROJECT PERIOD COST \$185,697,600.00		
				TOTAL BUDGET PERIOD COST \$185,697,600.00		
NOTICE OF AWARD						
Based on your Application dated 09/30/2013 including all modifications and amendments, the United States acting by and through the US Environmental Protection Agency (EPA) hereby awards \$154,748,000. EPA agrees to cost-share 83.33% of all approved budget period costs incurred, up to and not exceeding total federal funding of \$154,748,000. Recipient's signature is not required on this agreement. The recipient demonstrates its commitment to carry out this award by either: 1) drawing down funds within 21 days after the EPA award or amendment mailing date; or 2) not filing a notice of disagreement with the award terms and conditions within 21 days after the EPA award or amendment mailing date. If the recipient disagrees with the terms and conditions specified in this award, the authorized representative of the recipient must furnish a notice of disagreement to the EPA Award Official within 21 days after the EPA award or amendment mailing date. In case of disagreement, and until the disagreement is resolved, the recipient should not draw down on the funds provided by this award/amendment, and any costs incurred by the recipient are at its own risk. This agreement is subject to applicable EPA statutory provisions. The applicable regulatory provisions are 40 CFR Chapter 1, Subchapter B, and all terms and conditions of this agreement and any attachments.						
ISSUING OFFICE (GRANTS MANAGEMENT OFFICE)			AWARD APPROVAL OFFICE			
ORGANIZATION / ADDRESS			ORGANIZATION / ADDRESS			
Grants and Audit Management Branch 290 Broadway, 27th Floor New York, NY 10007-1866			EPA R2 Clean Water Division 290 Broadway New York NY 10007-1866			
THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY						
Digital signature applied by EPA Award Official Richard Manna - Acting Assistant Regional Administrator for Policy and Management					DATE 09/16/2014	

Obligated 9/17/14 RL
 Accepted _____
 ASAP Authorized 9/16/14 RL
 BP End Date Updated _____



9.17.14
 Certified
 WEP **b**

EPA Funding Information

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FUNDS	FORMER AWARD	THIS ACTION	AMENDED TOTAL
EPA Amount This Action	\$	\$ 154,748,000	\$ 154,748,000
EPA In-Kind Amount	\$	\$	\$ 0
Unexpended Prior Year Balance	\$	\$	\$ 0
Other Federal Funds	\$	\$	\$ 0
Recipient Contribution	\$	\$ 30,949,600	\$ 30,949,600
State Contribution	\$	\$	\$ 0
Local Contribution	\$	\$	\$ 0
Other Contribution	\$	\$	\$ 0
Allowable Project Cost	\$ 0	\$ 185,697,600	\$ 185,697,600

Assistance Program (CFDA)	Statutory Authority	Regulatory Authority
66.458 - Capitalization Grants for State Revolving Fund	Clean Water Act: Secs. 205(m) 601-607	40 CFR PTS 31 & 35 SUBPRT K

Fiscal									
Site Name	Req No	FY	Approp. Code	Budget Organization	PRC	Object Class	Site/Project	Cost Organization	Obligation / Deobligation
-	1402HE0187	14	E2	022	202B80	4111	14CA		154,748,000
									154,748,000

FUNDING VERIFIED

By *Q* Date 9/17/14

Budget Summary Page

Table A - Object Class Category (Non-construction)	Total Approved Allowable Budget Period Cost
1. Personnel	\$478,213
2. Fringe Benefits	\$280,950
3. Travel	\$0
4. Equipment	\$0
5. Supplies	\$0
6. Contractual	\$0
7. Construction	\$0
8. Other	\$184,806,132
9. Total Direct Charges	\$185,565,295
10. Indirect Costs: % Base NYSDEC: \$510,694 @ 23.99%, NYSDEC staff assigned to NYSEFC: \$248,469 @ 3.94%	\$132,305
11. Total (Share: Recipient <u>16.67</u> % Federal <u>83.33</u> %.)	\$185,697,600
12. Total Approved Assistance Amount	\$154,748,000
13. Program Income	\$0
14. Total EPA Amount Awarded This Action	\$
15. Total EPA Amount Awarded To Date	\$

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Administrative Conditions

GENERAL TERMS AND CONDITIONS

The recipient agrees to comply with the applicable EPA general terms and conditions available at: http://www.epa.gov/ogd/tc_jan_2014.pdf. These terms and conditions are in addition to the assurances and certifications made as part of the award and the terms, conditions or restrictions cited below.

The EPA repository for the general terms and conditions by year can be found at: <http://www.epa.gov/ogd/tc.htm>

GRANT-SPECIFIC ADMINISTRATIVE CONDITIONS

A. UTILIZATION OF SMALL, MINORITY AND WOMEN'S BUSINESS ENTERPRISES

GENERAL COMPLIANCE, 40 CFR, Part 33

The recipient agrees to comply with the requirements of EPA's Program for Utilization of Small, Minority and Women's Business Enterprises (MBE/WBE) in procurement under assistance agreements, contained in 40 CFR, Part 33.

FAIR SHARE OBJECTIVES, 40 CFR, Part 33, Subpart D

A recipient must negotiate with the appropriate EPA award official, or his/her designee, fair share objectives for MBE and WBE participation in procurement under the financial assistance agreements.

In accordance with 40 CFR, Section 33.411 some recipients may be exempt from the fair share objectives requirements described in 40 CFR, Part 33, Subpart D. Recipients should work with their DBE coordinator, if they think their organization may qualify for an exemption.

Current Fair Share Objective/Goal

The dollar amount of this assistance agreement or the total dollar amount of all of the recipient's financial assistance agreements in the current federal fiscal year from EPA is \$250,000, or more. The **New York State Department of Environmental Conservation** has negotiated the following, applicable MBE/WBE fair share objectives/goals with EPA as follows:

Construction - Minority and Women Business Enterprise (MBE/WBE) Participation Goals:

Combined MBE/WBE statewide 20%

Non-Construction – Minority and Women Business Enterprise (MBE/WBE) Participation Goals:

(For all other professional and contractual services; supplies and equipment)

Combined MBE/WBE statewide 20%



Negotiating Fair Share Objectives/Goals

In accordance with 40 CFR, Part 33, Subpart D, established goals/objectives remain in effect for three fiscal years unless there are significant changes to the data supporting the fair share objectives. The recipient is required to follow requirements as outlined in 40 CFR Part 33, Subpart D when renegotiating the fair share objectives/goals.

Objective/Goals of Loan Recipients

As a recipient of an EPA financial assistance agreement to capitalize revolving loan funds, the recipient agrees to either apply its own fair share objectives negotiated with EPA to identified loans using a substantially similar relevant geographic market, or negotiate separate fair share objectives with its identified loan recipients. These separate objectives/goals must be based on demonstrable evidence of the availability of MBEs and WBEs in accordance with 40 CFR, Part 33, Subpart D.

The recipient agrees that if procurements will occur over more than one year, the recipient may choose to apply the fair share objective in place either for the year in which the identified loan is awarded or for the year in which the procurement action occurs. The recipient must specify this choice in the financial assistance agreement, or incorporate it by reference therein.

SIX GOOD FAITH EFFORTS, 40 CFR, Part 33, Subpart C

Pursuant to 40 CFR, Section 33.301, the recipient agrees to make the following good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, and to ensure that sub-recipients, loan recipients, and prime contractors also comply. Records documenting compliance with the six good faith efforts shall be retained:

- (a) Ensure Disadvantaged Business Enterprises (DBE) are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local and Government recipients, this will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
- (b) Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.
- (c) Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For Indian Tribal, State and local Government recipients, this will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.
- (d) Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.
- (e) Use the services and assistance of the SBA and the Minority Business Development Agency of the Department of Commerce.
- (f) If the prime contractor awards subcontracts, require the prime contractor to take the steps in paragraphs (a) through (e) of this section.

MBE/WBE REPORTING, 40 CFR, Part 33, Sections 33.502 and 33.503

MBE/WBE reporting is limited to annual reports and only required for assistance agreements where one or more of the following conditions are met:

- (a) there are any funds budgeted in the contractual, equipment or construction lines of the award;
- (b) \$3,000 or more is included for supplies; or
- (c) there are funds budgeted for subawards or loans in which the expected budget(s)

meet the conditions as described in items (a) and (b).

This award meets one or more of the conditions as described above, therefore, the recipient agrees to complete and submit a "MBE/WBE Utilization Under Federal Grants, Cooperative Agreements and Interagency Agreements" report (EPA Form 5700-52A) on an annual basis.

When completing the annual report, recipients are instructed to check the box titled "annual" in section 1B of the form. For the final report, recipients are instructed to check the box indicated for the "last report" of the project in section 1B of the form. Annual reports are due by October 30th of each year. Final reports are due within 90 days after the end of the project period, whichever comes first.

The reporting requirement is based on planned procurements. Recipients with funds budgeted for non-supply procurement and/or \$3,000 or more in supplies are required to report annually whether the planned procurements take place during the reporting period or not. If no procurements take place during the reporting period, the recipient should check the box in section 5B when completing the form.

MBE/WBE reports should be sent to the Region 2 Grants Mailbox (Region2_GrantApplicationBox@epa.gov) with a courtesy copy to the Grants Specialist and the Region 2 DBE Coordinator, Michele Junker (Junker.Michele@epa.gov). The current EPA Form 5700-52A can be found at the EPA Office of Small Business Program's Home Page at http://www.epa.gov/osbp/dbe_reporting.htm

This provision represents an approved deviation from the MBE/WBE reporting requirements as described in 40 CFR, Part 33, Section 33.502; however, the other requirements outlined in 40 CFR Part 33 remain in effect, including the Fair Share Objectives negotiation as described in 40 CFR Part 33 Subpart D.

CONTRACT ADMINISTRATION PROVISIONS, 40 CFR, Section 33.302

The recipient agrees to comply with the contract administration provisions of 40 CFR, Section 33.302. The recipient also agrees to ensure that recipients of identified loans also comply with provisions of 40 CFR, Section 33.302.

BIDDERS LIST, 40 CFR, Section 33.501(b) and (c)

Recipients of a Continuing Environmental Program Grant or other annual reporting grant, agree to create and maintain a bidders list. Recipients of an EPA financial assistance agreement to capitalize a revolving loan fund also agree to require entities receiving identified loans to create and maintain a bidders list if the recipient of the loan is subject to, or chooses to follow, competitive bidding requirements. Please see 40 CFR, Section 33.501 (b) and (c) for specific requirements and exemptions.

B. ADVANCE METHOD OF PAYMENT

In accordance with EPA regulations, the recipient is authorized to receive advance payments under this agreement, provided that the recipient takes action to minimize the time elapsing between the transfer of funds from EPA and the disbursement of those funds. The recipient shall request Federal payments by completing the EPA Payment Requests Form (EPA Form 190-F-04-001) and either emailing or faxing it to the Las Vegas Finance Center at LVFC-grants@epa.gov or 702-798-2423. This form can be found at www.epa.gov/ogd/forms/forms.htm. All email attachments must be sent in pdf format.

C. INTERIM FEDERAL FINANCIAL REPORT AND CLOSE-OUT INSTRUCTIONS

1. Interim Federal Financial Reports (FFRs)

Pursuant to 40 CFR 31.41(b) and 31.50(b), EPA recipients shall submit an interim annual Federal Financial Report (SF-425) to EPA no later than 90 calendar days following the anniversary of the start date of the agreement. The FFR must be faxed to the Las Vegas Finance Office at 702-798-2423, emailed to LVFC-grants@epa.gov, or sent to the address below. A courtesy copy of the interim FFR can be submitted to the Grants and Audit Management Branch using one of the following options: email to Region2_GrantApplicationBox@epa.gov, fax to 212-637-3518 or sent to us in the mail at U.S. EPA - Region 2, 290 Broadway, 27th Floor, New York, NY 10007. All email attachments must be sent in pdf format. Documents emailed to us in any other format cannot and will not be accepted.

EPA may take enforcement actions in accordance with 40 CFR 31.43 if the recipient does not comply with this term and condition.

2. Closeout

The Administrative Closeout Phase for this grant will be initiated with the submission of a "final" FFR. At that time, the recipient must submit the following forms/reports to the EPA Region 2 Grants and Audit Management Branch, if applicable:

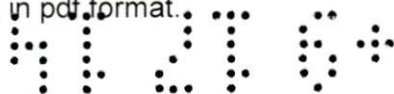
- Federally Owned Property Report
- An Inventory of all Property Acquired with federal funds
- Contractor's or Grantee's Invention Disclosure Report (EPA Form 3340-3)

D. EXTENSION OF PROJECT/BUDGET PERIOD EXPIRATION DATE

If a no cost time extension is necessary to extend the period of availability of funds (budget period), the recipient must submit a written request, including a justification as to why additional time is needed and an estimated date of completion to the EPA prior to the budget/project period expiration dates. The extension request should be submitted to the EPA, Grants and Audit Management Branch using one of the following options: email to Region2_GrantApplicationBox@epa.gov, fax to 212-637-3518 or sent to us in the mail at U.S. EPA - Region 2, 290 Broadway, 27th Floor, New York, NY 10007. An interim FFR (SF-425) covering all expenditures and obligations to date, must be emailed or faxed to the Las Vegas Finance Office at LVFC-grants@epa.gov or 702-798-2423 or sent to the address below. To expedite processing of your request, please submit a courtesy copy of the interim FFR to the Grants and Audit Management Branch along with your extension request. All email attachments must be sent in pdf format. Documents emailed to us in any other format cannot and will not be accepted.

US EPA, Las Vegas Finance Center
4220 S. Maryland Pkwy, Bld C, Rm 503
Las Vegas, NV 89119

or by email: LVFC-grants@epa.gov or Fax to: 702-798-2423. All email attachments must be sent in pdf format.



E. INDIRECT COSTS

If the recipient has submitted an indirect cost rate proposal to the cognizant Federal agency but does not yet have an approved rate, it must submit a copy to the EPA Regional Office of

the final or provisional Indirect Cost Negotiation Agreement that covers the agreement's budget period before it may charge indirect costs against this Assistance Agreement. If the recipient's negotiated rate does not extend through the life of the Assistance Agreement, additional indirect cost rate proposal(s) must be submitted until the full life of the Assistance Agreement is covered by negotiated indirect cost rates. The recipient **will not charge nor claim for reimbursement any indirect costs that are not covered by a negotiated indirect cost rate.**

Programmatic Conditions

GRANT-SPECIFIC PROGRAMMATIC CONDITIONS

A. RESTRICTION ON THE USE OF CWSRF FUNDING

No CWSRF funds may be expended on ineligible projects, including those detailed in the attached September 16, 2014 letter from Joan Leary Matthews, EPA Region 2 Clean Water Division Director.

B. AUTOMATED STANDARD APPLICATION FOR PAYMENTS (ASAP)

The New York State Department of Environmental Conservation (NYSDEC), acting on behalf of the State of New York, agrees to accept payment from the United States Environmental Protection Agency (EPA) with funds to be made available from the FY 2014 Title VI allotment pursuant to the Clean Water Act, as amended, (the Act), in accordance with the below payment schedule established under Section 601(b) of the Act and will deposit all such payments into the State Revolving Fund (SRF) in accordance with Title VI. Payments, cash draws and disbursements are defined and in accordance with the Initial Guidance for the State Revolving Fund pursuant to 40 CFR Part 35 Subpart K and the Operating Agreement.

As per EPA's publication, EPA 430/09-88-009, dated July 1988, entitled, "Letter of Credit, How is it Used in EPA's State Revolving Fund Program", a payment in the SRF Program is an action by EPA to increase the amount of funds available for cash draw in the Letter of Credit (i.e. the ceiling). Through a payment, the EPA makes funds available to the State up to the amount of the capitalization grant. A payment is not a transfer of cash to the State but only an authorization making funds available for transfer to the State when a cash draw request is submitted. A payment schedule, indicating the timing and size of the payment or payments to be made will be entered into between EPA and the State. It will be based on the State's projection of binding commitments, the rules for cash draws and the use of the funds.

In consideration of the above, payment from the ASAP shall be made in accordance with the following schedule. Future cash draws may not exceed the amount shown below:

\$ 6,189,920 (Administration*) September 2014

\$148,558,080 (Projects*) September 2014



***Administration Costs:** Under Section 603(d)(7), money in the SRF may be used for the reasonable costs of administering the Fund, provided that the amount does not exceed 4% of all grant awards to such fund under this title. Under this agreement, the total Administration costs requested for FY 2014 Base allotment of \$154,748,000 is \$6,189,920

of NYSDEC's allowable 4% of Administration costs. The remaining 96%, \$148,558,080, is currently applied to the Project costs.

C. CASH DRAW REQUIREMENTS

The NYSDEC agrees to the following conditions in accepting this Grant Agreement under the ASAP method of financing:

- (a) Cash draws made pursuant to 40 CFR 35.3160(b)(2) must be disbursed to refinancing recipients within three days of OSC cash draw.
- (b) All other cash draws will be made only to meet immediate disbursement needs. The three day disbursement requirement is in accordance with the ASAP Payment System.
- (c) NYSDEC shall provide timely reporting of cash disbursements and balances as required by the ASAP Manual.

D. GENERAL ADMINISTRATIVE REQUIREMENTS

NYSDEC agrees pursuant to 40 CFR Part 35, Subpart K, to administer the State Revolving Fund program in accordance with the terms, agreements, assurances and representations made within the Operation Agreement, the Intended Use Plan and the original application for Federal assistance dated September 30, 2013, revised April 1, 2014. The scope of work for this Grant shall be the eligible projects listed in the FFY 2014 Intended Use Plan. (see Programmatic Condition A for restrictions)

E. PROGRAM INCOME/ADMINISTRATIVE FEES

In accordance with 40 CFR §31.25(g)(2), the recipient is authorized to add program income generated under this agreement to the funds committed to the grant agreement by EPA and the grantee. Fees classified as program income are authorized to be used for eligible CWSRF project assistance, administration of the CWSRF program and for State Match. In addition to the purposes authorized for program income fees, fees classified as non-program income may be used for various general water quality program purposes. All fees shall be audited annually and reported on in both the Intended Use Plan and the Annual Report.

F. PRE-AWARD COSTS

In accordance with 40 C.F.R. §31.23, NYSDEC may charge pre-award costs (both Federal and non-Federal matching shares) incurred from October 1, 2013 to the actual award date provided that such costs were contained in the approved application and the approved IUP (see Programmatic Condition A for restrictions), and all costs are incurred within the approved budget period.

G. CLEAN WATER NATIONAL INFORMATION MANAGEMENT SYSTEM (CWNIMS)

NYSDEC agrees to enter data, as required by EPA to the Clean Water National Information Management System (CWNIMS). EPA agrees to provide technical assistance to the State in its use of the CWNIMS as a management information system.

H. GEOSPATIAL INFORMATION

Data produced under this project will adhere to the requirements of EPA's National Geospatial Data Policy (NGDP) (see http://www.epa.gov/esd/gqc/pdf/epa_natl_geo_data_policy.pdf). This Policy applies to all EPA organizations, grantees, agents working on behalf of EPA, and partner states of EPA

who design, develop directly or indirectly, compile, operate, or maintain EPA information collections developed for environmental program support. Refer to this policy for details on requirements for quality assurance project plans (QAPPs), geospatial data accuracy and geospatial metadata. Specifically, the grantee must provide documentation for all produced data, including source information for each digital data layer (i.e., scale and accuracy, map projection, coordinate system, etc.), and specific information about the data layer itself (i.e., method used, geographic extent of data layer, file format, date of creation, staff contact, description and definition of data fields and their contents, related files, if any, and description of data quality and quality assurance methods used). The EPA Metadata Editor (EME) was developed to simplify and standardize metadata development and is a recommended tool for streamlining production of the required metadata. The EME and related training materials can be downloaded from <http://www.epa.gov/geospatial/eme.html>. Data produced under this project will be submitted to the EPA Project Officer no later than 30 days after completion of the project. Delivery can be in the form of physical media or as downloadable data.

I. STATE MATCH

The recipient agrees to deposit into its State Revolving Fund (SRF) a match equal to at least 20 percent of the amount awarded in the capitalization grant.

J. CWSRF BENEFITS REPORTING REQUIREMENT

The recipient of funds for the State Revolving Funds (SRF) from the Consolidated Appropriations Act, 2014, P.L. 113-76 agrees to comply with all requests for data related to the use of the funds under Subchapter VI of the Clean Water Act (CWA), and to report all uses of the funds no less than quarterly, as the Environmental Protection Agency specifies for the CWSRF Benefits Reporting database. This reporting shall include but not be limited to data with respect to compliance with the Green Project Reserve (GPR) and additional subsidization requirements as specified in P.L. 113-76, and as outlined in the FY 2012 Procedures document and other data as necessary to carry out the authorities cited in this Grant Condition.

K. ANNUAL REPORT REQUIREMENTS

In accordance with 40 CFR 31.40, 40 CFR 35.3165, and 40 CFR 35.3570, the recipient agrees to provide in its Annual Report information regarding key project characteristics, milestones, and environmental/public health protection results in the following areas: 1) achievement of the outputs and outcomes established in the Intended Use Plan (IUP); 2) the reasons for delays if established outputs or outcomes were not met; 3) any additional pertinent information on environmental results; 4) compliance with the Green Project Reserve requirement as outlined in the FY 2012 Procedures document for the CWSRF, whether the State funded green projects, and what criteria were used; and 5) compliance with the additional subsidization requirement as described in the FY 2012 Procedures document.

L. ADDITIONAL SUBSIDIZATION

The recipient agrees to use funds provided by this grant to provide additional subsidization in the form of principal forgiveness, negative interest rate loans, or grants, in accordance with P.L. 113-76 as follows:

- a. The recipient agrees to provide additional subsidization in the form of principal forgiveness, negative interest rate loans, or grants to recipients of eligible Clean Water State Revolving loans in an amount at least equal to \$8,421,024 but no more than \$12,631,536 in accordance with the Consolidated Appropriations Act, 2014 (P.L. 113-76), and shall be so used by the recipient only where such funds are provided as

initial financing or to buy, refinance, or restructure debt obligations only where such debt was incurred on or after the date of enactment of P.L. 113-76.

b. Priority for additional subsidies should be given to communities that could not otherwise afford such projects or that are defined by the State as disadvantaged. To further ensure sustainability of eligible projects receiving additional subsidies, these subsidies should be directed to: 1) repair, replacement, and upgrade of infrastructure in existing communities; 2) investigations, studies, or plans that improve the technical, financial and managerial capacity of the assistance recipient to operate, maintain, and replace financed infrastructure; and/or 3) preliminary planning, alternatives assessment and eligible capital projects that reflect the full life cycle costs of infrastructure assets, conservation of natural resources, and alternative approaches to integrate natural or "green" systems into the built environment. The recipient agrees to provide in its Annual Report an explanation as to how they did or did not address this provision.

M. GREEN PROJECT RESERVE (GPR)

For the CWSRF, the recipient agrees to make a timely and concerted good faith solicitation for projects that address green infrastructure, water or energy efficiency improvements or other environmentally innovative activities. A good faith solicitation must be open to all GPR eligible projects in each of the four GPR categories. The State's annual open solicitation for projects will be deemed sufficient for these purposes as long as that solicitation was open to all GPR eligible projects in each of the four GPR categories. The recipient agrees to include in its IUP such qualified projects, or components of projects, that total an amount at least equal to 10% of its capitalization grant. The state must document the GPR solicitation process in its IUP and Annual Report and explain, if applicable, why GPR projects totaling at least 10 percent of the capitalization grant were not able to be funded. Any State not meeting the 10 percent requirement must outline in the Annual Report how they will expand their GPR solicitation for the following year.

N. WAGE RATE REQUIREMENTS

The recipient agrees to include in all agreements to provide assistance for the construction of treatment works carried out in whole or in part with such assistance made available by a State water pollution control revolving fund as authorized by title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.), or with such assistance made available under section 205(m) of that Act (33 U.S.C. 1285(m)), or both, a term and condition requiring compliance with the requirements of section 513 of that Act (33 U.S.C. 1372) in all procurement contracts and sub-grants, and require that loan recipients, procurement contractors and sub-grantees include such a term and condition in subcontracts and other lower tiered transactions. All contracts and subcontracts for the construction of treatment works carried out in whole or in part with assistance made available as stated herein shall insert in full in any contract in excess of \$2,000 the contract clauses as attached hereto entitled "Wage Rate Requirements Under The Clean Water Act, Section 513 and the Safe Drinking Water Act, Section 1450(e)." This term and condition applies to all agreements to provide assistance under the authorities referenced herein, whether in the form of a loan, bond purchase, grant, or any other vehicle to provide financing for a project, where such agreements are executed on or after October 30, 2009.

O. AMERICAN IRON AND STEEL

(a) ~~Definitions.~~ As used in this award term and condition—

(1) "iron and steel products" means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials.

(2) *Steel* means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.

(b) *Domestic preference.*

(1) This award term and condition implements P.L. 113-76, Consolidated Appropriations Act, 2014, Section 436, by requiring that all iron and steel products used for a project for the construction, alteration, maintenance or repair of a public water system or treatment work are produced in the United States except as provided in paragraph (b)(2) and (b)(3) of this section and condition.

(2) This requirement does not apply with respect to a project if a State agency approves the engineering plans and specifications for the project, in that agency's capacity to approve such plans and specifications prior to a project requesting bids, prior to January 17, 2014.

(3) This requirement shall not apply in any case or category of cases in which the Administrator of the Environmental Protection Agency finds that:—

- (i) applying the requirement would be inconsistent with the public interest;
- (ii) iron and steel products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or
- (iii) inclusion of iron and steel products produced in the United States will increase the cost of the overall project by more than 25 percent.

(c) *Request for a Waiver under (b)(3)*

(1) Any recipient request to use foreign iron or steel products in accordance with paragraph (b)(3) of this section shall include adequate information for Federal Government evaluation of the request, including—

- (A) A description of the foreign and domestic iron, steel, and/or manufactured goods;
- (B) Unit of measure;
- (C) Quantity;
- (D) Cost;
- (E) Time of delivery or availability;
- (F) Location of the project;
- (G) Name and address of the proposed supplier; and
- (H) A detailed justification of the reason for use of foreign iron or steel products cited in accordance with paragraph (b)(3) of this section.

(2) If the Administrator receives a request for a waiver under this section, the waiver request shall be made available to the public for at least 15 days prior to making a finding based on the request.

(3) Unless the Administrator issues a waiver of this term, use of foreign iron and steel products is noncompliant with P.L. 113-76, Consolidated Appropriations Act, 2014, Section 436.

(d) This term and condition shall be applied in a manner consistent with United States obligations under international agreements

P. Wage Rate Requirements Under The Clean Water Act, Section 513 and the Safe Drinking Water Act, Section 1450(d) Preamble

With respect to the Clean Water and Safe Drinking Water State Revolving Funds, EPA provides capitalization grants to each State which in turn provides subgrants or loans to eligible entities within the State. Typically, the subrecipients are municipal or other local governmental entities that manage the funds. For these types of recipients, the provisions set forth under Roman Numeral I, below, shall apply. Although EPA and the State remain responsible for ensuring subrecipients' compliance with the wage rate requirements set forth herein, those subrecipients shall have the primary responsibility to maintain payroll records as described in Section 3(ii)(A), below and for compliance as described in Section I-5.

Occasionally, the subrecipient may be a private for profit or not for profit entity. For these types of recipients, the provisions set forth in Roman Numeral II, below, shall apply. Although EPA and the State remain responsible for ensuring subrecipients' compliance with the wage rate requirements set forth herein, those subrecipients shall have the primary responsibility to maintain payroll records as described in Section II-3(ii)(A), below and for compliance as described in Section II-5.

I. Requirements Under The Consolidated Appropriations Act, 2014 (P.L. 113-76) For Subrecipients That Are Governmental Entities:

The following terms and conditions specify how recipients will assist EPA in meeting its Davis-Bacon (DB) responsibilities when DB applies to EPA awards of financial assistance under the FY 2014 Consolidated Appropriations Act with respect to State recipients and subrecipients that are governmental entities. If a subrecipient has questions regarding when DB applies, obtaining the correct DB wage determinations, DB provisions, or compliance monitoring, it may contact the State recipient. If a State recipient needs guidance, the recipient may contact **Anthony Tao of the USEPA Region 2 Contracts Management Branch, at 212-637-3372 or at the following email address: tao.anthony@epa.gov** for guidance. The recipient or subrecipient may also obtain additional guidance from DOL's web site at <http://www.dol.gov/whd/>

1. Applicability of the Davis- Bacon (DB) prevailing wage requirements.

Under the FY 2014 Consolidated Appropriation Act, DB prevailing wage requirements apply to the construction, alteration, and repair of treatment works carried out in whole or in part with assistance made available by a State water pollution control revolving fund and to any construction project carried out in whole or in part by assistance made available by a drinking water treatment revolving loan fund. If a subrecipient encounters a unique situation at a site that presents uncertainties regarding DB applicability, the subrecipient must discuss the situation with the recipient State before authorizing work on that site.

2. Obtaining Wage Determinations.

(a) Subrecipients shall obtain the wage determination for the locality in which a covered activity subject to DB will take place prior to issuing requests for bids, proposals, quotes or other methods for soliciting contracts (solicitation) for activities subject to DB. These wage determinations shall be incorporated into solicitations and any subsequent contracts. Prime contracts must contain a provision requiring that subcontractors follow the wage determination incorporated into the prime contract.

(i) While the solicitation remains open, the subrecipient shall monitor www.wdol.gov weekly to ensure that the wage determination contained in the solicitation remains current. The subrecipients shall amend the solicitation if DOL issues a modification more than 10 days prior to the closing date (i.e. bid opening) for the solicitation. If DOL modifies or supersedes the applicable wage determination less than 10 days prior to the closing date, the subrecipients may request a finding from the State recipient that there is not a reasonable time to notify interested contractors of the modification of the wage determination. The State recipient will provide a report of its findings to the subrecipient.

(ii) If the subrecipient does not award the contract within 90 days of the closure of the solicitation, any modifications or supersedes DOL makes to the wage determination contained in the solicitation shall be effective unless the State recipient, at the request of the subrecipient, obtains an extension of the 90 day period from DOL pursuant to 29 CFR 1.6(c)(3)(iv). The subrecipient shall monitor

www.wdol.gov on a weekly basis if it does not award the contract within 90 days of closure of the solicitation to ensure that wage determinations contained in the solicitation remain current.

(b) If the subrecipient carries out activity subject to DB by issuing a task order, work assignment or similar instrument to an existing contractor (ordering instrument) rather than by publishing a solicitation, the subrecipient shall insert the appropriate DOL wage determination from www.wdol.gov into the ordering instrument.

(c) Subrecipients shall review all subcontracts subject to DB entered into by prime contractors to verify that the prime contractor has required its subcontractors to include the applicable wage determinations.

(d) As provided in 29 CFR 1.6(f), DOL may issue a revised wage determination applicable to a subrecipient's contract after the award of a contract or the issuance of an ordering instrument if DOL determines that the subrecipient has failed to incorporate a wage determination or has used a wage determination that clearly does not apply to the contract or ordering instrument. If this occurs, the subrecipient shall either terminate the contract or ordering instrument and issue a revised solicitation or ordering instrument or incorporate DOL's wage determination retroactive to the beginning of the contract or ordering instrument by change order. The subrecipient's contractor must be compensated for any increases in wages resulting from the use of DOL's revised wage determination.

3. Contract and Subcontract provisions.

(a) The Recipient shall insure that the subrecipient(s) shall insert in full in any contract in excess of \$2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a treatment work under the CWSRF or a construction project under the DWSRF financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in § 5.1 or the FY 2014 Consolidated Appropriations Act, the following clauses:

(1) Minimum wages.

(i) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each

classification for the time actually worked therein: Provided that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

Subrecipients may obtain wage determinations from the U.S. Department of Labor's web site, www.dol.gov.

(ii)(A) The subrecipient(s), on behalf of EPA, shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The State award official shall approve a request for an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the subrecipient(s) agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), documentation of the action taken and the request, including the local wage determination shall be sent by the subrecipient (s) to the State award official. The State award official will transmit the request, to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210 and to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification request within 30 days of receipt and so advise the State award official or will notify the State award official within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the subrecipient(s) do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the award official shall refer the request and the local wage determination, including the views of all interested parties and the recommendation of the State award official, to the Administrator for determination. The request shall be sent to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt of the request and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii)(B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(2) Withholding. The subrecipient(s), shall upon written request of the EPA Award Official or an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly, for each week in which any contract work is performed, a copy of all payrolls to the subrecipient, that is, the entity that receives the sub-grant or loan from the State capitalization grant recipient. Such documentation shall be available on request of the State recipient or EPA. As to each payroll copy received, the subrecipient shall provide written confirmation in a form satisfactory to the State indicating whether or not the project is in compliance with the requirements of 29 CFR 5.5(a)(1) based on the most recent payroll copies for the specified week. The payrolls shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on the weekly payrolls. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour

Division Web site at <http://www.dol.gov/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the subrecipient(s) for transmission to the State or EPA if requested by EPA, the State, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the subrecipient(s).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

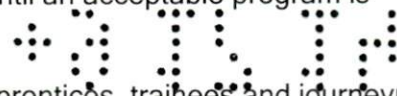
(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the State, EPA or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency or State may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and trainees

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice

in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.



(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended and 29 CFR part 30.

(5) Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the EPA determines may be appropriate, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) Contract termination; debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and Subrecipient(s), State, EPA, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility.

(i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

4. Contract Provision for Contracts in Excess of \$100,000.

(a) Contract Work Hours and Safety Standards Act. The subrecipient shall insert the following clauses set forth in paragraphs (a)(1), (2), (3), and (4) of this section in full in any contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by Item 3, above or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (a)(1) of this section the contractor and any subcontractor

responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (a)(1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (a)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The subrecipient, upon written request of the EPA Award Official or an authorized representative of the Department of Labor, shall withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (a)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (a)(1) through (4) of this section.

(b) In addition to the clauses contained in Item 3, above, in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in 29 CFR 5.1, the Subrecipient shall insert a clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Subrecipient shall insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the (write the name of agency) and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

5. Compliance Verification

(a) The subrecipient shall periodically interview a sufficient number of employees entitled to DB prevailing wages (covered employees) to verify that contractors or subcontractors are paying the appropriate wage rates. As provided in 29 CFR 5.6(a)(6), all interviews must be conducted in confidence. The subrecipient must use Standard Form 1445 (SF 1445) or equivalent documentation to memorialize the interviews. Copies of the SF 1445 are available from EPA on request.

(b) The subrecipient shall establish and follow an interview schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. Subrecipients must conduct more frequent interviews if the initial interviews or other information indicated that there is a risk that the contractor or subcontractor is not complying with DB. Subrecipients shall immediately conduct interviews in response to an alleged violation of the prevailing wage requirements. All interviews shall be conducted in confidence."

(c) The subrecipient shall periodically conduct spot checks of a representative sample of weekly payroll data to verify that contractors or subcontractors are paying the appropriate wage rates. The subrecipient shall establish and follow a spot check schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. At a minimum, if practicable, the subrecipient should spot check payroll data within two weeks of each contractor or subcontractor's submission of its initial payroll data and two weeks prior to the completion date the contract or subcontract. Subrecipients must conduct more frequent spot checks if the initial spot check or other information indicates that there is a risk that the contractor or subcontractor is not complying with DB. In addition, during the examinations the subrecipient shall verify evidence of fringe benefit plans and payments there under by contractors and subcontractors who claim credit for fringe benefit contributions.

(d) The subrecipient shall periodically review contractors and subcontractors use of apprentices and trainees to verify registration and certification with respect to apprenticeship and training programs approved by either the U.S Department of Labor or a state, as appropriate, and that contractors and subcontractors are not using disproportionate numbers of, laborers, trainees and apprentices. These reviews shall be conducted in accordance with the schedules for spot checks and interviews described in Item 5(b) and (c) above.

(e) Subrecipients must immediately report potential violations of the DB prevailing wage requirements to the EPA DB contact listed above and to the appropriate DOL Wage and Hour District Office listed at <http://www.dol.gov/contacts/whd/america2.htm>.

II. Requirements Under The Consolidated Appropriations Act, 2014 (P.L. 113-76) For Subrecipients That Are Not Governmental Entities:

The following terms and conditions specify how recipients will assist EPA in meeting its DB responsibilities when DB applies to EPA awards of financial assistance under the FY2013 Continuing Resolution with respect to subrecipients that are not governmental entities. If a subrecipient has questions regarding when DB applies, obtaining the correct DB wage determinations, DB provisions, or compliance monitoring, it may contact the State recipient for guidance. If a State recipient needs guidance, the recipient may contact **Anthony Tao of the USEPA Region 2 Contracts Management Branch, at 212-637-3372 or at the following email address: tao.anthony@epa.gov** for guidance. The recipient or subrecipient may also obtain additional guidance from DOL's web site at <http://www.dol.gov/whd/>

Under these terms and conditions, the subrecipient must submit its proposed DB wage determinations to the State recipient for approval prior to including the wage determination in any solicitation, contract task orders, work assignments, or similar instruments to existing contractors.

1. Applicability of the Davis- Bacon (DB) prevailing wage requirements.

Under the FY 2014 Consolidated Appropriations Act, DB prevailing wage requirements apply to the construction, alteration, and repair of treatment works carried out in whole or in part with assistance made available by a State water pollution control revolving fund and to any construction project carried out in whole or in part by assistance made available by a drinking water treatment revolving loan fund. If a subrecipient encounters a unique situation at a site that presents uncertainties regarding DB applicability, the subrecipient must discuss the situation with the recipient State before authorizing work on that site.

2. Obtaining Wage Determinations.

(a) Subrecipients must obtain proposed wage determinations for specific localities at

www.wdol.gov. After the Subrecipient obtains its proposed wage determination, it must submit the wage determination to Timothy Burns, P.E., Director, Engineering and Program Management, New York State Environmental Facilities Corporation, at 518-402-7433 or at the following email address: Burns@nysefc.org for approval prior to inserting the wage determination into a solicitation, contract or issuing task orders, work assignments or similar instruments to existing contractors (ordering instruments unless subsequently directed otherwise by the State recipient Award Official).

(b) Subrecipients shall obtain the wage determination for the locality in which a covered activity subject to DB will take place prior to issuing requests for bids, proposals, quotes or other methods for soliciting contracts (solicitation) for activities subject to DB. These wage determinations shall be incorporated into solicitations and any subsequent contracts. Prime contracts must contain a provision requiring that subcontractors follow the wage determination incorporated into the prime contract.

(i) While the solicitation remains open, the subrecipient shall monitor www.wdol.gov on a weekly basis to ensure that the wage determination contained in the solicitation remains current. The subrecipients shall amend the solicitation if DOL issues a modification more than 10 days prior to the closing date (i.e. bid opening) for the solicitation. If DOL modifies or supersedes the applicable wage determination less than 10 days prior to the closing date, the subrecipients may request a finding from the State recipient that there is not a reasonable time to notify interested contractors of the modification of the wage determination. The State recipient will provide a report of its findings to the subrecipient.

(ii) If the subrecipient does not award the contract within 90 days of the closure of the solicitation, any modifications or supersedes DOL makes to the wage determination contained in the solicitation shall be effective unless the State recipient, at the request of the subrecipient, obtains an extension of the 90 day period from DOL pursuant to 29 CFR 1.6(c)(3)(iv). The subrecipient shall monitor www.wdol.gov on a weekly basis if it does not award the contract within 90 days of closure of the solicitation to ensure that wage determinations contained in the solicitation remain current.

(c) If the subrecipient carries out activity subject to DB by issuing a task order, work assignment or similar instrument to an existing contractor (ordering instrument) rather than by publishing a solicitation, the subrecipient shall insert the appropriate DOL wage determination from www.wdol.gov into the ordering instrument.

(c) Subrecipients shall review all subcontracts subject to DB entered into by prime contractors to verify that the prime contractor has required its subcontractors to include the applicable wage determinations.

(d) As provided in 29 CFR 1.6(f), DOL may issue a revised wage determination applicable to a subrecipient's contract after the award of a contract or the issuance of an ordering instrument if DOL determines that the subrecipient has failed to incorporate a wage determination or has used a wage determination that clearly does not apply to the contract or ordering instrument. If this occurs, the subrecipient shall either terminate the contract or ordering instrument and issue a revised solicitation or ordering instrument or incorporate DOL's wage determination retroactive to the beginning of the contract or ordering instrument by change order. The subrecipient's contractor must be compensated for any increases in wages resulting from the use of DOL's revised wage determination.

3. Contract and Subcontract provisions.

(a) The Recipient shall insure that the subrecipient(s) shall insert in full in any contract in excess of \$2,000 which is entered into for the actual construction, alteration and/or repair,

including painting and decorating, of a treatment work under the CWSRF or a construction project under the DWSRF financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in § 5.1 or the FY 2014 Consolidated Appropriations Act, the following clauses:

(1) Minimum wages.

(i) All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

Subrecipients may obtain wage determinations from the U.S. Department of Labor's web site, www.dol.gov.

(ii)(A) The subrecipient(s), on behalf of EPA, shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The State award official shall approve a request for an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the subrecipient(s) agree on the classification and

wage rate (including the amount designated for fringe benefits where appropriate), documentation of the action taken and the request, including the local wage determination shall be sent by the subrecipient(s) to the State award official. The State award official will transmit the report, to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210 and to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification request within 30 days of receipt and so advise the State award official or will notify the State award official within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the and the subrecipient(s) do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the award official shall refer the request, and the local wage determination, including the views of all interested parties and the recommendation of the State award official, to the Administrator for determination. The request shall be sent to the EPA Regional Coordinator concurrently. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt of the request and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii)(B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(2) Withholding.

The subrecipient(s) shall upon written request of the EPA Award Official or an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly, for each week in which any contract work is performed, a copy of all payrolls to the subrecipient, that is, the entity that receives the sub-grant or loan from the State capitalization grant recipient. Such documentation shall be available on request of the State recipient or EPA. As to each payroll copy received, the subrecipient shall provide written confirmation in a form satisfactory to the State indicating whether or not the project is in compliance with the requirements of 29 CFR 5.5(a)(1) based on the most recent payroll copies for the specified week. The payrolls shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on the weekly payrolls. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the subrecipient(s) for transmission to the State or EPA if requested by EPA, the State, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the subrecipient(s).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the State, EPA or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency or State may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and trainees

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at

less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended and 29 CFR part 30.

(5) Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the EPA determines may be appropriate, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and Subrecipient(s), State, EPA, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility.

(i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

4. Contract Provision for Contracts in Excess of \$100,000.

(a) Contract Work Hours and Safety Standards Act. The subrecipient shall insert the following clauses set forth in paragraphs (a)(1), (2), (3), and (4) of this section in full in any contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by Item 3, above or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The subrecipient shall upon the request of the EPA Award Official or an authorized representative of the Department of Labor, withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (a)(2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.

(c) In addition to the clauses contained in Item 3, above, in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in 29 CFR 5.1, the Subrecipient shall insert a clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Subrecipient shall insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the (write the name of agency) and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

5. Compliance Verification

(a). The subrecipient shall periodically interview a sufficient number of employees entitled to DB prevailing wages (covered employees) to verify that contractors or subcontractors are paying the appropriate wage rates. As provided in 29 CFR 5.6(a)(6), all interviews must be conducted in confidence. The subrecipient must use Standard Form 1445 (SF 1445) or equivalent documentation to memorialize the interviews. Copies of the SF 1445 are available from EPA on request.

(b) The subrecipient shall establish and follow an interview schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. Subrecipients must conduct more frequent interviews if the initial interviews or other information indicated that there is a risk that the contractor or subcontractor is not complying with DB. Subrecipients shall immediately conduct interviews in response to an alleged violation of the prevailing wage requirements. All interviews shall be conducted in confidence."

(c). The subrecipient shall periodically conduct spot checks of a representative sample of weekly payroll data to verify that contractors or subcontractors are paying the appropriate wage rates. The subrecipient shall establish and follow a spot check schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. At a minimum, if practicable the subrecipient should spot check payroll data within two weeks of each contractor or subcontractor's submission of its initial payroll data and two weeks prior to the completion date the contract or subcontract. Subrecipients must conduct more frequent spot checks if the initial spot check or other information indicates that there is a risk that the contractor or subcontractor is not complying with DB. In addition, during the examinations the subrecipient shall verify evidence of fringe benefit plans and payments there under by contractors and subcontractors who claim credit for fringe benefit contributions.

(d). The subrecipient shall periodically review contractors and subcontractors use of apprentices and trainees to verify registration and certification with respect to apprenticeship and training programs approved by either the U.S Department of Labor or a state, as appropriate, and that contractors and subcontractors are not using disproportionate numbers of laborers, trainees and apprentices. These reviews shall be conducted in accordance with the schedules for spot checks and interviews described in Item 5(b) and (c) above.

(e) Subrecipients must immediately report potential violations of the DB prevailing wage requirements to the EPA DB contact listed above and to the appropriate DOL Wage and Hour District Office listed at <http://www.dol.gov/whd/america2.htm>.